

Senate Bill No. 1732

CHAPTER 1082

An act to amend Sections 76000, 76100, and 76101 of, to amend and renumber Section 68073 of, to add Section 76223 to, to add Chapter 4.2 (commencing with Section 69202) to Title 8 of, and to add Chapter 5.7 (commencing with Section 70301) to Title 8 of, the Government Code, relating to court facilities.

[Approved by Governor September 29, 2002. Filed
with Secretary of State September 29, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1732, Escutia. Court facilities.

Existing law provides that no county is responsible for funding court operations, as defined, but that each county is responsible for providing necessary and suitable court facilities. Existing law authorizes counties to impose a specified penalty assessment on fines, penalties, and forfeitures collected by the courts for certain criminal offenses and a specified surcharge on parking penalties, to be used for courthouse construction, criminal justice facilities construction, automatic fingerprint identification funding, forensic laboratory funding, emergency medical services funding, and DNA identification funding. Certain counties are also authorized to surcharge civil filing fees for courthouse construction.

This bill would enact the Trial Court Facilities Act of 2002, revising the provisions governing courthouse construction. The bill would provide for a Court Facilities Dispute Resolution Committee to, among other things, hear and determine specified disputes in relation to the construction or transfer of court facilities, membership and financing to be determined, as specified. The bill would provide for the transfer of the responsibility of a county to provide necessary and suitable court facilities by authorizing the transfer of that responsibility from a county to the Judicial Council pursuant to an agreement to be negotiated between a county and the Judicial Council, as specified, between July 1, 2003, and June 30, 2007. Among other things, the bill would require new duties of the Judicial Council, the Administrative Office of the Courts, and the Department of Finance. In this regard, the bill would impose a state-mandated local program by expanding various duties of a county with respect to court facilities.

This bill would establish the Court Facilities Trust Fund to be financed by specified payments by each county, and the State Court Facilities

Construction Fund to be financed by specified state court construction penalty assessments, parking surcharges, and filing fee surcharges on civil actions, as specified. The bill would also establish the Transitional State Court Facilities Construction Fund to finance certain court facilities transferred to the Judicial Council pursuant to the bill, together with the reduction of a specified portion of penalty assessments imposed by the county.

This bill would further declare that a specified provision would become operative only upon the enactment of another specified provision or provisions, and become inoperative, as provided.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares the following:

(a) The Lockyer-Isenberg Trial Court Funding Act (hereafter act) provides that court operations are to be funded by the state, rather than primarily by the counties, as they had been prior to the enactment of the act. Although the counties continue to contribute to trial court funding through maintenance-of-effort obligations, the restructuring of court funding ends a dual system of county and state funding and provides a more stable and consistent funding source for trial court operations. Counties, however, continue to bear primary responsibility for trial court facilities.

(b) The act also created the Task Force on Court Facilities (hereafter task force) to deal with the question of facilities that has been left as the responsibility of the counties by the act. The purpose of this act is to transfer the responsibility for trial court facilities funding and operation to the state in a manner generally consistent with the recommendations of the task force.

(c) The overarching recommendation of the task force is that responsibility for trial court facilities funding and operation be shifted from the counties to the state. The primary reasons for that recommendation are as follows:



(1) The judicial branch of government is now wholly responsible for its programs and operations, with the exception of trial court facilities. The judiciary should have the responsibility for all of its functions related to its operations and staff, including facilities.

(2) Uniting responsibility for operations and facilities increases the likelihood that operational costs will be considered when facility decisions are made, and enhances economical, efficient, and effective court operations.

(3) The state, being solely responsible for creating new judicial positions, drives the need for new court facilities.

(4) Equal access to justice is a key underpinning of our society and the rule of law. It is also a paramount goal of the Judicial Council, the policymaking body of the judicial branch. The state can best ensure uniformity of access to all court facilities in California.

(d) Specific provisions for carrying out this transfer of responsibility for trial court facilities from the counties to the state are contained in this act. The guiding principles for the transition are as follows:

(1) The transfer shall occur as expeditiously as possible and be completed by June 30, 2007.

(2) The transfer shall be negotiated on a building-by-building basis between the state and the counties. Negotiations shall be consummated in an agreement governing each facility.

(3) The Judicial Council shall represent the state's interests in negotiations with counties.

(4) Generally, fee title to court facilities shall be transferred to the state when possible. However, in the case of joint-use facilities or historic facilities, title may remain with a county as provided for in the governing agreement. In those cases, the principal guiding negotiations shall be the preservation of the respective equity interests of the county and the state in a joint-use or historic facility.

(5) Generally, the Judicial Council and the county shall agree to the transfer of responsibility for each court facility in that county unless transfer of responsibility is rejected.

(6) Counties shall not be entitled to compensation for any equity value of court facilities transferred to the state.

(7) Generally, the state shall be expected to accept responsibility for facilities in an as-is condition. However, the state may reject facilities that are seriously deficient, and require counties to continue financial responsibility for those facilities.

(8) Counties shall provide funding for facilities operation and maintenance costs based on historic funding patterns through a county facilities payment to the state. An amount shall be calculated for each facility and that amount shall be agreed to prior to the transfer of



responsibility for the facility to which it pertains. This funding shall be provided in perpetuity, but not indexed to increase with inflation over time.

(9) A method shall be created to resolve disputes between the Judicial Council and a county if those parties fail to reach agreement for a facility or the appropriate calculation of the county facilities payment amount.

(e) The same responsibility for appellate court facilities, including the responsibility for planning and construction of new facilities, shall be transferred to the Judicial Council.

(f) The task force recommendations concerning money collected for court facilities consist of the following:

(1) That money collected for trial court facilities operation and maintenance through the county facilities payment, as deposited in the Court Facilities Trust Fund, which represents “funds historically spent by counties to maintain existing court facilities,” should continue to be used “to fund or offset the management, operations, and maintenance of all existing facilities.”

(2) That the money collected for court facilities construction through filing fee surcharges and the State Court Construction Penalty Assessment, as deposited in the State Court Facilities Construction Fund, should be “dedicated to the capital facilities’ needs of the judicial branch.”

SEC. 2. Chapter 4.2 (commencing with Section 69202) is added to Title 8 of the Government Code, to read:

CHAPTER 4.2. APPELLATE COURT FACILITIES

69202. (a) The Judicial Council shall annually recommend to the Governor and the Legislature the amount proposed to be spent for the planning, renovation, and building of facilities for the appellate courts.

(b) Facilities shall be subject to the State Building Construction Act of 1955 (commencing with Section 15800) and the Property Acquisition Law (commencing with Section 15850), except, notwithstanding any other provision of law, the Administrative Office of the Courts shall serve as the implementing agency upon the approval of the Department of Finance.

69204. The Judicial Council, as the policymaking body for the judicial branch, shall have the following responsibilities and authorities with regard to appellate court facilities, in addition to any other authority or responsibilities established by law:

(a) Exercise full responsibility, jurisdiction, control, and authority as an owner would have over appellate court facilities, including, but not limited to, the acquisition and development of facilities.



(b) Exercise the full range of policymaking authority over appellate court facilities, including, but not limited to, planning, construction, acquisition, and operation, to the extent not otherwise limited by the law.

(c) Establish policies, procedures, and guidelines for ensuring that the appellate courts have adequate and sufficient facilities, including, but not limited to, facilities' planning, acquisition, construction, design, operation, and maintenance.

(d) Allocate appropriated funds for appellate court facilities maintenance and construction, subject to the other provisions of this chapter.

(e) Prepare funding requests for appellate court facility construction, repair, and maintenance.

(f) Implement the design, bid, award, and construction of all appellate court construction projects, except as delegated to others.

(g) Provide for capital outlay projects that may be built with funds appropriated or otherwise available for these purposes, as follows:

(1) Approve five year and master plans for each appellate court.

(2) Establish priorities for construction.

(3) Submit the cost of projects proposed to be funded to the Department of Finance for inclusion in the Governor's budget.

(h) Keep funding for appellate court facilities, whether for operation, planning, or construction, separate from funding for trial court facilities.

69206. The Administrative Office of the Courts shall have the following responsibilities and authority in addition to other responsibilities and authority granted by law or delegated by the Judicial Council:

(a) Carry out the policies of the Judicial Council in regard to appellate court facilities, except as otherwise limited by the law.

(b) Develop for Judicial Council approval the master plans for appellate court facilities in each court.

(c) Construct appellate court buildings, including, but not limited to, selection of architects and contractors, except as otherwise limited by the law.

SEC. 3. Section 68073 of the Government Code is amended and renumbered to read:

70311. (a) Commencing July 1, 1997, and each year thereafter, no county or city and county is responsible to provide funding for "court operations," as defined in Section 77003 and Rule 810 of the California Rules of Court, as it read on July 1, 1996.

(b) Except as provided in Section 70312, commencing as of July 1, 1996, and each year thereafter, each county or city and county shall be responsible for providing necessary and suitable facilities for judicial and court support positions created prior to July 1, 1996. In determining

whether facilities are necessary and suitable, the reasonable needs of the court and the fiscal condition of the county or city and county shall be taken into consideration.

(c) If a county or city and county fails to provide necessary and suitable facilities as described in subdivision (b), the court shall give notice of a specific deficiency. If the county or city and county then fails to provide necessary and suitable facilities pursuant to this section, the court may direct the appropriate officers of the county or city and county to provide the necessary and suitable facilities. The expenses incurred, certified by the judges to be correct, are a charge against the county or city and county treasury and shall be paid out of the general fund.

(d) Prior to the construction of new court facilities or the alteration, remodeling, or relocation of existing court facilities, a county or city and county shall solicit the review and comment of the judges of the court affected regarding the adequacy and standard of design, and that review and comment shall not be disregarded without reasonable grounds.

(e) Any reference in the statutes enacted prior to January 1, 2003, that refers to Section 68073 shall be deemed to refer to this section.

SEC. 4. Chapter 5.7 (commencing with Section 70301) is added to Title 8 of the Government Code, to read:

CHAPTER 5.7. SUPERIOR COURT FACILITIES

Article 1. General Provisions

70301. This chapter shall be known and may be cited as the “Trial Court Facilities Act of 2002.”

As used in this chapter:

(a) “Bonded indebtedness” includes any financial encumbrance, including, but not limited to, bonds, lease revenue bonds, certificates of participation, mortgages, liens, or loans, on a building.

(b) “Building” means a single structure or connected structures. A building may include related structures.

(c) “County facilities payment” means the amount established by Article 5 of this chapter to be paid by a county in partial exchange for relief from the responsibility for providing court facilities.

(d) “Court facilities” consist of all of the following:

- (1) Rooms for holding superior court.
- (2) The chambers of the judges of the court.
- (3) Rooms for the attendants of the court, including, but not limited to, rooms for accepting and processing documents filed with the court.
- (4) Heat, ventilation, air-conditioning, light, and fixtures for those rooms and chambers.



(5) Common and connecting space to permit proper and convenient use of the rooms.

(6) Rooms for secure holding of a prisoner attending court sessions, together with secure means of transferring the prisoner to the courtroom.

(7) Any other area within a building required or used for court functions.

(8) Grounds appurtenant to the building containing the rooms.

(9) Parking spaces historically made available to one or more users of court facilities.

(e) “Deferred maintenance” means a backlog of projects that occurs when ongoing maintenance and repair of court facilities or a building is not sustained at an appropriate level in quality, quantity, or frequency to support the designed level of service of the building or special repair projects are not accomplished as needed.

(f) “Historical building” means a building that is identified as a historical building by the county board of supervisors and is either a “qualified historical building or structure,” as defined in Section 18955 of the Health and Safety Code, or is a building eligible for inclusion on the National Register of Historic Places under Section 470a of Title 16 of the United States Code.

(g) “Maintenance” means the ongoing upkeep of buildings, equipment, grounds, and utilities required to keep a building and its systems in a condition adequate to support its designed level of service.

(h) “Responsibility for facilities” means the obligation of providing, operating, maintaining, altering, and renovating a building that contains the facilities.

(i) “Shared use” refers to a building which is used for both court and noncourt purposes.

(j) “Special improvement” means any modification that increases the designed level of services of a building, or a one-time modification of a building that is not expected to be repeated during the lifetime of the building.

(k) “Special repair” means modifications that maintain the designed level of services of a building and does not include a special improvement.

(l) “Unacceptable seismic safety rating” means a rating of either “substantial risk” (level V), “extensive but not imminent risk” (level VI), or “imminent risk” (level VII) under the Risk Acceptability Table of the State Building Seismic Program as developed by the Division of the State Architect, April 1994, p. II-2.

(m) “Usable space” means space that an occupier of a facility can actually use and may allocate to house personnel and furniture.



(n) “User rights” means the right to exclusive use of the noncommon area within a building allocated to that use as well as shared use of the common areas of the building and the appurtenant grounds and parking.

70303. (a) The Court Facilities Dispute Resolution Committee is hereby created to hear and determine disputes between a county and the Judicial Council as specified by this chapter.

(b) The committee shall consist of the following members:

(1) One person selected by the California State Association of Counties.

(2) One person selected by the Judicial Council.

(3) One person selected by the Director of Finance.

(c) The committee shall hear and make recommendations to the Director of Finance for determinations in disputes involving the following matters:

(1) Buildings rejected for transfer of responsibility because of deficiencies as provided in Section 70328.

(2) Failure to reach agreement on transfer of responsibility for a building as provided in Section 70333.

(3) Disputes regarding the appropriateness of expenditures from a local courthouse construction fund as provided in Section 70403.

(4) County appeal of a county facilities payment amount as provided in subdivision (e) of Section 70366.

(5) Administrative Office of the Courts appeal of a county facilities payment amount as provided in subdivision (e) of Section 70367.

(d) Upon receipt of the recommendation from the committee, the Director of Finance shall make the final determination of the issue in dispute.

(e) The expenses of members of the committee shall be paid for by the agency or organization selecting the member.

(f) The Judicial Council, the California State Association of Counties, and the Department of Finance shall jointly provide for staff assistance to the committee.

(g) Regulations and rules adopted by the committee shall be exempt from review and approval or other processing by the Office of Administrative Law required by Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2.

Article 2. Responsibility for Court Facilities

70312. If responsibility for court facilities is transferred from the county to the Judicial Council pursuant to this chapter, the county is relieved of any responsibility under Section 70311 for providing those facilities. The county is also relieved of any responsibility for deferred



or ongoing maintenance for the facility transferred, except for the county facilities payment required by Section 70353. Except as otherwise provided by this chapter, or by the agreement between the Judicial Council and the county under this chapter, the Judicial Council shall have ongoing responsibility for providing trial court facilities. If responsibility for all court facilities within a county has been transferred pursuant to this chapter, that county shall have no responsibility for providing court facilities. This section does not relieve a county of its obligation under Article 5 (commencing with Section 70341) or its obligations under any agreement entered into pursuant to this chapter.

70313. This chapter may not be construed as authorizing a county, a city and county, a court, the Judicial Council, or the state to supply to the official reporters of the courts stenography, stenotype, or other shorthand machines, or as authorizing the supply to the official reporters of the courts, for use in the preparation of transcripts, of typewriters, transcribing equipment, supplies, or other personal property. The enactment of this provision is a statement of existing law under former subdivision (f) of Section 68073 and is not a modification of the prior law.

Article 3. Agreements Transferring Responsibility for Court Facilities

70321. The Judicial Council, in consultation with the superior court of each county and the county shall enter into agreements concerning the transfer of responsibility for court facilities from that county to the Judicial Council. The agreements shall be negotiated between July 1, 2003, and June 30, 2007, inclusive. Transfer of responsibility may occur not earlier than July 1, 2004, and not later than June 30, 2007. On or before July 1, 2003, each county shall designate those persons who shall negotiate the agreements on behalf of the county and shall give the Judicial Council the names of those persons. The name of a person designated by a county to negotiate on its behalf may be changed by the county at any time by providing written notice to the Judicial Council.

70322. The transfer of responsibility for court facilities in each building shall be subject to a separate agreement.

70323. Subject to the provisions of Section 70325 concerning a building subject to a bonded indebtedness, and Section 70329 concerning historic buildings, transfer of responsibility for court facilities shall be evidenced by the following change in title to the building containing those facilities:

(a) If the building is currently owned by the county and used solely for court functions, the building shall be transferred to the state which



shall hold title to and use of the entire building. This subdivision may not apply to buildings that are deficient as provided in subdivision (b) of Section 70326. Unless bonded indebtedness, including the legal obligation to pay the indebtedness, is transferred to the state, this subdivision does not apply so long as a court facility is subject to bonded indebtedness. Title shall transfer to the state when the bonded indebtedness is paid. For the purposes of this subdivision, bonded indebtedness includes only the bonded indebtedness existing at the time of transfer of responsibility, and any refunding of the existing bonded indebtedness issued to achieve monetary savings to the county. Any refunding under this subdivision does not extend the original maturity date of the bonded indebtedness and may not increase the original principal amount of the indebtedness, except to pay costs relating to the refunding of the bonded indebtedness.

(b) If the building is currently owned by the county and used for court and other county functions, title to the building may be held in one of three ways, each of which shall be considered a transfer of responsibility for the court facilities for purposes of Section 70312:

- (1) The county may continue to hold title to the building.
- (2) The county may transfer title to the building to the state.
- (3) The county may transfer title to the building to joint ownership between the county and the state.

(c) If the building is currently owned by a third party and leased by the county, any of the following apply:

(1) If the lessor consents to transfer of the lease to the state either without modification of the lease or on modification terms acceptable to the county and the Judicial Council, the county shall transfer its rights and responsibilities under the lease to the state. The court shall then occupy the building under the terms of the lease.

(2) If the lessor does not consent to the transfer of the lease to the state or the lessor's new terms for transfer of the lease to the state are unacceptable to either the county or the Judicial Council, the county shall continue to provide facilities to the court under the terms of the lease and the amount of the lease payments shall be excluded from the county facilities payment provided by Section 70359. Upon expiration of the lease, the amount of the lease payments shall then be included in the county facilities payment in the same manner provided by Section 70359, as if the lease were transferred to the state.

(3) If the lessor does not consent to the transfer of the lease to the state or the lessor's new terms for transfer of the lease to the state are unacceptable to either the county or the Judicial Council, the county and the Judicial Council may agree that the provisions of paragraph (2) of subdivision (c) shall not apply, the court shall find alternative facilities,



and the amount of the lease payments due under the lease shall be included in the county facilities payment as provided by Section 70359. The agreement under this subdivision may include an agreement for a different lease payment amount to be included in the county facilities payment.

70325. (a) (1) If title to a building proposed to be transferred pursuant to this chapter is subject to a bonded indebtedness, the county shall retain the revenue sources used to pay the bonded indebtedness in which case the county shall be required to continue to make the payments on the bonded indebtedness.

(2) As an alternative to paragraph (1), the county and the state may agree that the county shall transfer the revenue sources to the state, in which case, the state shall be required to make the payments on the bonded indebtedness in the amount of the revenue received. If the amount payable on the bonded indebtedness exceeds the amount of the revenue transferred to the state, the county shall be responsible for paying the remaining amount. If a revenue source is used to pay the bonded indebtedness on several buildings and not all of those buildings are being transferred to the state, the county shall transfer the proportion of the revenue used to pay the bonded indebtedness on the buildings transferred to the state. Except for revenue sources subject to Section 70375, any revenue source transferred by the county to the state under this paragraph shall be transferred back to the county by the state when the bonded indebtedness on the building is retired.

(b) Except in the case of a shared use building or historical facility whose title is not being transferred from the county, the agreement concerning transfer of responsibility for court facilities contained in a building subject to bonded indebtedness shall specify when title to the building will transfer, which shall not be later than the date of final payment of the bonded indebtedness on the building. A county shall not extend the term of the final maturity date of, or increase the amount of, any bonded indebtedness on a building containing court facilities whose responsibility has been transferred to the state without the consent of the Administrative Director of the Courts. For the purposes of this subdivision, the amount of the bonded indebtedness shall not be deemed to be increased if the amount is refunded for an amount not greater than the original principal amount of the indebtedness plus any costs relating to the refunding of the bonded indebtedness.

(c) Notwithstanding any provision to the contrary in this chapter, during the period and to the extent which bonded indebtedness is outstanding with respect to any court facility, the state shall not have any equity or other ownership rights in, to, or with respect to, the court facility. A county may not sell, assign, or transfer any rights or interests



in that facility, or otherwise further encumber the facility, other than those rights, interests, or encumbrances required by legal documents establishing the bonded indebtedness. If, during the period of bonded indebtedness outstanding with respect to a court facility, the state is required to vacate the facility through the operation or enforcement of the legal documents establishing the bonded indebtedness, the county shall be responsible for providing the state with suitable and necessary court facilities at least equal to those occupied by the state immediately prior to the date on which the state was compelled to vacate the facility.

70326. (a) Except as provided in this section, the agreement may not require any payment from the county to the state for any deficiencies in the court facilities being transferred caused by deferred maintenance.

(b) A building and the court facilities in it shall be deemed deficient if any of the following exist:

(1) A deficiency or deficiencies that constitute a significant threat to life, safety, or health.

(2) A deficiency or deficiencies that include seismically hazardous conditions with an unacceptable seismic safety rating.

(3) Deficiencies that in their totality are significant to the functionality of the facility.

(c) Neither title to a deficient building nor responsibility for the court facilities in that building shall transfer to the state or the Judicial Council under this chapter, and Section 70312 does not apply to the court facilities in a deficient building, unless provision is made in the agreement for correction of the deficient items.

(d) If one or more phases of a maintenance project are pending on the court facilities prior to the date of the agreement under this article, the agreement shall specify whether the county shall complete those phases of the project, to the extent approved, or shall transfer funds to the state to permit completion of those phases of the project. As used in this section, a phase of a project is to be deemed pending to the extent that the board of supervisors has either approved the phase in whole or in part at a board of supervisors meeting, and either allocated or appropriated money for the phase in whole or in part, or executed a contract for the phase in whole or in part.

70327. (a) Prior to the completion of the negotiations concerning the transfer of responsibility for court facilities in a building, the state shall provide for a licensed structural engineer to inspect and evaluate the building containing the court facilities for seismic safety if the building was built under a building code prior to the 1988 Uniform Building Code and the building has not been upgraded since 1988 for seismic safety. The inspection shall be made using the method and criteria for seismic safety developed by the Department of General



Services' Real Estate Services Division. Any repair required to the damage caused by the exploratory inspection shall be paid for by the state.

(b) The county shall assist the state in the inspection by providing the following:

- (1) Access to the facility for inspection purposes.
- (2) Drawings and design documents for the building, if available.
- (3) Any reports on structural or seismic evaluations of the building.

(c) If a building is given an unacceptable seismic safety rating and the county subsequently performs seismic upgrade work, the state may, upon the request of the county and at the county's expense, contract with a licensed structural engineer to reinspect and reevaluate the building.

(d) Neither title to a building with an unacceptable seismic safety rating nor responsibility for the court facilities in that building shall transfer to the state or the Judicial Council under this chapter, and Section 70312 does not apply to the court facilities in that building, unless provision is made in the agreement for correction of the unacceptable seismic safety items.

(e) The Administrative Director of the Courts, in his or her discretion, with the approval of the Director of Finance or his or her designee, may waive the inspection required by subdivision (a) upon his or her finding of either of the following:

(1) The ratio of court facilities to other facilities in the building is minimal and title to the building is not being transferred to the state.

(2) The amount of court space in the building does not exceed 10,000 square feet.

70328. If a building receives an unacceptable seismic safety rating under Section 70327, or is rejected as deficient under Section 70326, the county may appeal that action to the Court Facilities Dispute Resolution Committee. The state has the burden of proving by a preponderance of the evidence the unacceptable seismic safety rating or deficient rating.

70329. (a) Title to a historical building containing court facilities may not be transferred to the state without the express consent of the county's board of supervisors.

(b) If title to a historical building containing court facilities is not transferred to the state, the county may still be relieved of its responsibility to fund court facilities under Section 70312 if the county as part of its agreement under this article either:

(1) Makes the court facilities within the historical building available to the Judicial Council for court use.

(2) Provides, with the consent of the Judicial Council, alternative court facilities of at least comparable size, condition, and utility.



(c) Court facilities provided under this section shall meet all requirements for transfer of court facilities under this chapter, and the court and the Judicial Council shall have all the rights to that building that they have under this chapter to other court facilities whose responsibility is transferred to the Judicial Council.

(d) A county shall not prevent a court from using court facilities traditionally used by that court in a historical building, except with the consent of the Administrative Director of the Courts.

70330. The agreement shall provide for parking spaces for the court of comparable convenience, number, and type, as was made available for court use as of October 1, 2001. For purposes of this section, parking spaces for the court includes, but is not limited to, spaces for judges, court employees, other court staff, witnesses, and jurors.

70331. (a) If there are one or more pending phases of a project involving court facilities and the responsibility for the facility is to be transferred to the Judicial Council, the Judicial Council may, as part of the agreement under this article, require the completion of those phases of the project, to the extent that county funds or property have been allocated, approved, appropriated, or committed to those phases of the project by resolution or ordinance as a condition of transfer of responsibility to the Judicial Council.

(b) This section applies irrespective of whether title to the building containing the court facilities is to be transferred to the state.

(c) As used in this section, a phase of a project is to be deemed pending to the extent that the board of supervisors has either approved the phase in whole or in part at a board of supervisors meeting, and allocated or appropriated money for the phase in whole or in part, or executed a contract for the phase in whole or in part.

(d) The Judicial Council may request the county to implement design changes relating to the project if either the overall effect of the changes do not increase the costs of the project to the county, or the Judicial Council agrees to pay any extra costs caused by the changes.

70332. The Judicial Council, in consultation with the Department of Finance and the trial courts, and the California State Association of Counties, in consultation with the Department of Finance and the counties, shall develop the procedures for implementing the transfer of responsibility for court facilities from the counties to the state as set forth in this article.

70333. If the Judicial Council and the county fail to reach agreement on any facility, each shall present its position to the Court Facilities Dispute Resolution Committee which shall render its determination concerning that transfer of responsibility for that facility.



Article 4. Administration of Shared Use Buildings

70341. (a) The user rights of the court and the county are based on the proportional allocation of exclusive use facilities within the building for the court and for the county as specified in the agreement, regardless of the entity holding title to the building.

(b) The court and the county shall each have exclusive use of the facilities in the building currently used by it, together with the shared use of the common areas, indefinitely and at no cost, subject to the terms of any lease with a third-party lessor.

70342. (a) If the county holds title to a shared use building and the court wishes to have additional space in the building, if the county agrees to allocate additional space, the county may charge the state reasonable rent for any space as may be agreed between the county and the Judicial Council.

(b) If the state holds title to a shared use building and the county wishes to have additional space in the building, if the state agrees to allocate additional space, the state may charge the county reasonable rent for any space as may be agreed to between the county and the Judicial Council.

(c) If the state and the county jointly hold title to a shared use building and either the court or the county wishes to have additional space in the building, the Judicial Council and the county may agree to modify the amount of space and the charges made for that space.

(d) If the state or the county is a lessee in a shared use building owned by a third party and the court or the county wishes to have additional space in the building, the Judicial Council or the county may negotiate with the lessor concerning the amount of space and the charges made for that space. This subdivision does not permit either the state or the county to occupy space in the building leased by the other party without the consent of that party.

(e) Unless the Judicial Council and the county agree otherwise, if either the Judicial Council or the county desires to decrease the amount of space it occupies in a shared use building, it may do so only after offering the other party the space on the same terms and conditions as to which it has proposed to transfer the space to a third party. Notwithstanding the transfer of space pursuant to this subdivision or the failure to use the space, the Judicial Council and the county are not relieved of their rights and responsibilities under the agreement entered into pursuant to Section 70343, unless that agreement is superseded by a subsequent agreement. As used in this subdivision, a “third party” means an entity other than the court or the county.



70343. (a) Notwithstanding the manner of holding title to a shared use building:

(1) The rights and responsibilities of the Judicial Council, the court, and the county in a shared use building shall be established by an agreement between the Judicial Council and the county which may be modified by the consent of both the Judicial Council and the county. The agreement shall include, but not be limited to:

(A) The liability and responsibility for ongoing maintenance and administration of the building.

(B) Any agreed-upon conditions involving the ongoing administration of the building.

(C) Any agreements concerning general liability for the building, building planning, engineering, design, maintenance, repair, construction, failure to maintain common use areas, and dispute resolution.

(D) A provision involving resolution of disputes that may arise under the agreement between the county and the Judicial Council.

(2) Unless otherwise specifically provided by agreement between the Judicial Council and the county, the Judicial Council and the county shall share operation and maintenance costs in a shared use building as follows:

(A) Each entity is responsible for the operation and normal day-to-day maintenance costs of that space in the building exclusively used by the entity.

(B) Each entity shall share the operating and normal day-to-day maintenance costs for the common space in the building based on the proportionate amount of space exclusively used by each entity.

(C) Each entity shall share the major building repairs and maintenance affecting the entire building, including, but not limited to, common areas, based on the proportionate amount of space exclusively used by each entity.

(b) The use of space in a joint-use building by both the court and the county shall be compatible with the building and shall not deteriorate or diminish the ability of either the county or the court to use the remaining space effectively.

70344. (a) The entity holding title to a shared use building, except a third-party lessor, shall not transfer any right to a third party of the part of the building used by the other entity or place further bonded indebtedness on it, except as already required by operation of the legal documentation related to bonded indebtedness or as agreed to by the Judicial Council and the county, if the result of the action would be a further delay in transfer of title to the building to the other party pursuant to subdivision (b) of Section 70325.

(b) If either the court or the county occupies 80 percent or more of a shared use building, the Judicial Council, on behalf of the court, or the county may require the other entity to vacate the building. The entity vacating the building shall be given reasonable notice and shall be compensated by the other entity for its equity in the facility and for relocation costs at the fair market rate.

(c) Except as provided in subdivision (b), if the court or the Judicial Council is required to vacate a shared use building owned by the county, in whole or in part, the county shall provide the court or the Judicial Council with suitable and necessary facilities at least equal to those previously occupied by the court. The failure of the county to provide those facilities shall make the county responsible to the court under Section 70311 for the facilities not provided.

Article 5. County Facilities Payment

70351. It is the intent of the Legislature in enacting this section to provide a source of funding for the ongoing operations and maintenance of court facilities by requiring each county to pay to the state the amount that county historically expended for operation and maintenance of court facilities. It is further the intent of the Legislature that funding for the ongoing operations and maintenance of court facilities that are in excess of the county facilities payments be provided by the state.

70352. (a) There is hereby established the Court Facilities Trust Fund.

(b) Money deposited in this fund and appropriated by the Legislature shall be administered by the Judicial Council for the operation, repair, and maintenance of court facilities and other purposes provided by statute. The Judicial Council may delegate the administration of the fund to the Administrative Director of the Courts.

(c) The Judicial Council shall recommend to the Governor and the Legislature each fiscal year on the proposed expenditures from the fund and submit a report on actual expenditures after the end of each fiscal year.

70353. (a) Each county shall remit the county facilities payment determined by this article to the Controller, for deposit into the Court Facilities Trust Fund. One-quarter of each county's facilities payment shall be remitted to the Controller quarterly on October 1, January 1, April 1, and July 1. Any payment that is not made when required by this subdivision shall be considered delinquent, and subject to the penalties specified in subdivision (b).

(b) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall calculate a penalty on any delinquent



payment by multiplying the amount of the delinquent payment at a daily rate equivalent to $1\frac{1}{2}$ percent per month for the number of days the payment is delinquent. Penalty amounts calculated pursuant to this subdivision shall be paid by the county to the Court Facilities Trust Fund no later than 45 days after the end of the month in which the penalty was calculated.

(c) The Judicial Council shall provide the Controller with a schedule of the county facility payments at the beginning of each fiscal year. If the amount of the county facility payment changes pursuant to this article, the Judicial Council shall provide the Controller with a new schedule of payments within 30 days of the change.

70354. The components of the county facilities payment are based on the actual annual direct and indirect county expenditures on court facilities. In the case of a shared use building, the amounts are prorated for the court's usable space in the building as a percentage of total usable space in the building. The determination of the court's usable space and the total usable space shall be made by the standard methodology used for determining usable space by the Department of General Services.

70355. Except for the value computed under Section 70359, all values listed in this article shall be adjusted from the fiscal year of the expenditure to the effective date of transfer for inflation using, as the inflation index, the average of the following three indices from the Bureau of Labor Statistics Producer Price Index:

(a) Building cleaning and maintenance services (Series Id PCU 7349).

(b) Operators and lessors of nonresidential buildings (Series Id PCU 6512).

(c) Maintenance and repair constructions (Series Id PCU BMRP).

70356. The following items shall be included in the county facilities payment based on a five-year average of expenditures made by the county for facility operation and maintenance. This amount shall be computed by multiplying the value for each of the five fiscal years from 1995–96 to 1999–2000, inclusive, by the increase in the inflation index from January 1 of that fiscal year to the date of transfer of responsibility for the court facilities from the county to the state, and then averaging the five inflated yearly values:

(a) Maintenance and repair, including, but not limited to, maintenance and repair of the building and its components, utility systems, security equipment, and interior and exterior lighting.

(b) Purchase, installation, modernization, and maintenance of major building systems not of an ongoing nature, including, but not limited to, plumbing, HVAC (heating, ventilation, and air-conditioning), electrical, and vertical transportation.



- (c) A special repair.
- (d) Landscaping and grounds maintenance services for court facilities.
- (e) Maintenance of parking spaces or garages dedicated to the court or for jurors.
- (f) County facility management and administrative costs directly or indirectly associated with trial court facilities, including, but not limited to, management, supervision, planning, design, department administration, payroll, finance, procurement, and program management.

70357. The cost of utilities shall be included in the county facilities payment by calculating the average consumption of utilities for the fiscal years 1995–96 to 1999–2000, inclusive, and multiply the consumption averages by the 1999–2000 rates, and multiplying the value by the increase in the inflation index from January 1, 2000, to the date of transfer of responsibility for the court facilities from the county. As used in this section, utility costs include, but are not limited to, natural gas, heating oil, electricity, water, sewage, and garbage. The consumption rates for 1999–2000 shall be the average of the rates for each month of that fiscal year. Utility costs shall be included without regard to whether payment of the costs was made by the county, the court, or another entity, except that the amount of specific utility costs may not be included in the county facilities payment if all of the following conditions are satisfied:

- (a) A lease expressly provides that the utilities are to be paid by the lessor.
- (b) There is no payment by the lessee for the utilities, except as part of the lease payment.
- (c) The lease payment is included in the county facilities payment.

70358. Insurance costs shall be included in the county facilities payment. If the actual expenditures made by the county are used to determine the amount, the expenditures shall be based on the 1999–2000 fiscal year multiplied by the increase in the inflation index from January 1, 2000, to the date of the transfer of responsibility for the court facilities from the county to the state.

The amount of insurance may not include the cost of any insurance required by any agreement involving bonded indebtedness on the facility to the extent that the cost of insurance is greater than the cost of commercial insurance coverage on the building.

The determination of the insurance costs may consider the costs of commercial insurance coverage for a fair and reasonable level of insurance and the costs of self-insurance. The amount of the insurance



costs shall be subject to negotiation between the Judicial Council and the county.

To the extent the responsibility for grounds is transferred, the insurance costs for court facilities shall include, but not be limited to, the cost of liability insurance relating to the grounds.

70359. (a) Court facilities rental or leasing, except to the extent included as a court operation in Rule 810 of the California Rules of Court, shall be included in the county facilities payment using as the initial amount the annual amount for the lease for the fiscal year of the date of transfer of those court facilities to the state.

(b) The amount computed under subdivision (a) shall be adjusted annually for each remaining year in the lease to reflect the changed annualized amount for the lease for each year remaining on the lease. A lease amount in the final year of any lease entered into or renewed on or after October 2, 2001, shall represent a good faith relationship to the fair market value of the facilities either at the time of the making of the lease or the time of determination of the final year lease amount.

(c) The adjustment of the amount pursuant to subdivision (b) shall not permit either the county or the Judicial Council to appeal the county facilities payment amount under Section 70366 or 70367, except as to any issues directly related to the adjustment made by subdivision (b).

(d) The amount of any lease included in the county facilities payment amount shall, unless otherwise agreed to by the Administrative Director of the Courts and the county, be paid by the county from the county's courthouse construction fund, if the lease was originally entered into prior to July 1, 2002, and to the extent the lease was funded in whole or in part by the courthouse construction fund prior to July 1, 2002. The length of time payment that may be made from the courthouse construction fund is to be calculated by the length of the lease entered into before July 1, 2002, plus any one renewal or extension of not more than five years entered into on or after July 2, 2002. The Administrative Director of the Courts may agree to a longer time for payment from the courthouse construction fund.

70360. Calculation of the county facilities payment may not include any of the following:

- (a) Purchase of land and buildings.
- (b) Construction and construction services.
- (c) Maintenance of parking for the general public whose responsibility is not transferred and that may also be used by the courts or jurors.
- (d) Depreciation of court facilities.
- (e) Costs associated with court facilities or a portion of the facilities that is not transferred to the state or that remains a county responsibility.



- (f) A capital project that alters the facilities' function or capacity.
- (g) Any county payments resulting from bonded indebtedness and not normally a cost of building operation.
- (h) A special improvement.

70361. The Administrative Office of the Courts, in consultation with the courts, and the California State Association of Counties, in consultation with the counties, shall jointly prepare forms and instructions for calculating the county facilities payment in compliance with this section and submit those forms and instructions to the Director of Finance for approval. In the event that the Administrative Office of the Courts and the California State Association of Counties are unable to agree on forms and instructions, they shall present their positions of agreement and disagreement to the Director of Finance who shall make the final determination on the forms and instructions. The proposed forms and instructions or positions of each party shall be provided to the Director of Finance no later than June 30, 2003. Upon approval by the Director of Finance, the Administrative Office of the Courts shall provide the counties and the courts with the approved forms and instructions.

70362. The Department of Finance shall provide the Administrative Office of the Courts with the base inflation index figures for January 1, 1996, January 1, 1997, January 1, 1998, January 1, 1999, and January 1, 2000, to be included in the approved instructions. When the proposed date of transfer of responsibility is determined for a facility, the department shall provide the Administrative Office of the Courts with the inflation index figures for that county for the proposed dates of transfer. If the actual date of transfer is different than the proposed date of transfer, the department shall provide the Administrative Office of the Courts with the inflation index figures for that county for the actual date of transfer.

70363. Each county shall calculate the county facilities payment for each facility using the forms and instructions as approved and distributed pursuant to Section 70361. The county shall mail the Judicial Council and local court the actual expenditure figures and adjustments at least 90 days prior to the proposed date of transfer of responsibility for that facility. The county auditor shall certify the reported expenditures and indexed calculations.

(a) Prior to the transfer of responsibility of each court facility from the county to the state, the Administrative Office of the Courts shall review the accuracy of the calculations.

(b) The Administrative Office of the Courts and the county shall meet and discuss any differences they have concerning the calculations in an effort to reduce or eliminate any areas of disagreement. Following the



discussions, the Administrative Office of the Courts shall mail the Department of Finance the proposed county facility payment and any necessary background information, including the calculations and the reported county expenditures and a summary of any disagreements between the Administrative Office of the Courts and the county regarding the payment.

(c) The Department of Finance shall within 30 days of the receipt of the proposed county facilities payment from the Administrative Office of the Courts do any of the following:

- (1) Approve the proposed payment.
- (2) Approve a modified payment.
- (3) Request additional information from either the county or the Administrative Office of the Courts.

(d) When the department has approved a county facilities payment for that facility, it shall mail the Administrative Director of the Courts the approved county facilities payment. The Administrative Office of the Courts shall mail a copy of the Department of Finance notification to the county administrative officer and the court executive officer.

70365. The parties to any appeal of the determination of the county facilities payment, for purposes of the mailing of documents, are the county administrative officer, on behalf of the county, and the Administrative Director of the Courts, on behalf of both the state and the court.

70366. (a) Within 30 days after the Administrative Office of the Courts has mailed the county the approved county facilities payment, pursuant to Section 70364, the county may submit a declaration to the Court Facilities Dispute Resolution Committee, with the mailing of copies to the other parties, that the amount is incorrect for one or more of the following reasons:

- (1) Expenditure data is reported incorrectly or calculated incorrectly and causes an approved county facilities payment amount that is higher than the payment should be.
- (2) The approved county facilities payment includes amounts that were specifically appropriated, funded, and expended by the county to fund extraordinary one-time expenditures. Extraordinary one-time expenditures do not include periodic major facility repair or maintenance including, but not limited to, reroofing or replacement of a major system component. Extraordinary one-time expenditures do include, but are not limited to, abatement of asbestos and seismic structural upgrades.
- (3) The approved county facilities payment includes expenses funded from grants or subventions that would not have been funded without these grants or subventions.



(b) The Administrative Director of the Courts shall mail comments to the Court Facilities Dispute Resolution Committee on the county's declaration within 30 days of the mailing of the county's declaration, with the mailing to the other parties.

(c) Within 90 days of receipt of comments pursuant to subdivision (b), the Court Facilities Dispute Resolution Committee shall review the declarations and comments received, and make its recommendation to the Director of Finance concerning correction of any errors and, if necessary, adjustment of the amount of the county facilities payment. The Court Facilities Dispute Resolution Committee shall mail a copy of its recommendation to all the parties.

(d) The Director of Finance or his or her designee shall review the recommendations of the Court Facilities Dispute Resolution Committee and make his or her determination concerning any correction of errors and, if necessary, adjustment of the amount of the county facilities payment. The director shall mail a copy of his or her determination on all the parties.

70367. (a) Within 30 days after the Administrative Director of the Courts has mailed to the county, under Section 70364, the approved county facilities payment, the Administrative Director of the Courts may submit a declaration to the Court Facilities Dispute Resolution Committee, mailing of copies to the other parties, that the amount is incorrect because the county failed to report court facilities expenses paid by the county which reduced the amount of the approved county facilities payment.

(b) The county shall mail its comments to the Court Facilities Dispute Resolution Committee on the administrative director's declaration within 30 days of the mailing of the administrative director's declaration, with mailing to the other parties.

(c) Within 90 days of receipt of comments pursuant to subdivision (b), the Court Facilities Dispute Resolution Committee shall review the declarations and comments received, and makes its recommendation to the Director of Finance concerning correction of any errors and, if necessary, adjustment of the amount of the county facilities payment. The Court Facilities Dispute Resolution Committee shall mail a copy of its recommendation to all the parties.

(d) The Director of Finance or his or her designee shall review the recommendations of the Court Facilities Dispute Resolution Committee and make his or her determination concerning any correction of errors and, if necessary, adjustment of the amount of the county facilities payment. The director shall serve a copy of his or her determination on all the parties.



70368. The county shall initially compute a separate county facilities payment for each building containing court facilities whose responsibility is transferred to the Judicial Council using the proposed date of transfer of responsibility for those court facilities as the date for computing inflation under Sections 70356, 70357, and 70358. The county's responsibility for the county facilities payment for those facilities commences upon the actual date of transfer of responsibility for those facilities. If the actual date of transfer of responsibility for a facility is different than the proposed date of transfer, upon which the county facilities payment is calculated, the Administrative Office of the Courts shall adjust the amount of the county facilities payment by applying the inflation index figures for that county for the actual date of transfer, as provided in Section 70362, to the approved county facilities payment. The amount of any county facilities payment that takes effect after the beginning of a fiscal year shall be prorated for the amount remaining in that fiscal year. In no event shall a county have any responsibility for a court facility payment prior to the effective date of the transfer of responsibility for a facility.

70369. Where mail of notice or any other document is required by this article, any method of mailing equivalent to first-class mail may be used. The computation of time based on mailing under this article is based on the date the item was deposited in the mail.

70370. If the amount computed by the county under Section 70368 is increased pursuant to this article, the county shall pay the state the difference relating back to the initial date payment was due under Section 70368. If the amount computed by the county under Section 70368 is reduced pursuant to this article, the state shall pay the county the difference relating back to the initial date payment was due under Section 70368. Upon agreement between the county and state, any amount due under this section may be made by an addition or reduction in the next scheduled county facilities payment.

Article 6. State Court Facilities Construction Fund

70371. There is hereby established the State Court Facilities Construction Fund, the proceeds of which shall be subject to the provisions of this article. Improvement of the court facilities and the construction funds generated by this article are intended to further reasonable access to the courts and judicial process throughout the state for all parties.

70372. (a) Except as otherwise provided in this article, there shall be levied a state court construction penalty, in addition to any other state or local penalty including, but not limited to, the penalty provided by



Section 1464 of the Penal Code and Section 76000 of the Government Code, in an amount equal to five dollars (\$5) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including, but not limited to, all offenses, except parking offenses, as defined in subdivision (i) of Section 1463 of the Penal Code, involving a violation of a section of the Fish and Game Code, the Health and Safety Code, or the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code. Any bail schedule adopted pursuant to Section 1269b of the Penal Code may include the necessary amount to pay the state penalties established by this section, by Section 1464 of the Penal Code, and Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine. After a determination by the court of the amount due, the clerk of the court shall collect the penalty and transmit it immediately to the county treasury and the county treasurer shall transmit these sums as provided in subdivision (f).

(b) In addition to the penalty provided by subdivision (a), for every parking offense where a parking penalty, fine, or forfeiture is imposed, an added state court construction penalty of one dollar and fifty cents (\$1.50) shall be included in the total penalty, fine, or forfeiture. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1462.3 or 1463.009 of the Penal Code. In those cities, districts, or other issuing agencies which elect to accept parking penalties, and otherwise process parking violations pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the added penalty provided for by this section. Each agency which elects to process parking violations shall pay to the county treasurer one dollar and fifty cents (\$1.50) for the parking penalty imposed by this section for each violation which is not filed in court. Those payments to the county treasurer shall be made monthly, and the county treasurer shall transmit these sums as provided in subdivision (f).

(c) Where multiple offenses are involved, the state court construction penalty shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the state court construction penalty shall be reduced in proportion to the suspension.

(d) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making the deposit shall also deposit a sufficient amount to include the state court construction penalty prescribed by this section for



forfeited bail. If bail is returned, the state court construction penalty paid thereon pursuant to this section shall also be returned.

(e) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the state court construction penalty, the payment of which would work a hardship on the person convicted or his or her immediate family.

(f) Within 45 days after the end of the month that moneys are deposited in the county treasury pursuant to subdivision (a) or (b), the county treasurer shall transmit the moneys to the State Controller, to be deposited in the State Court Facilities Construction Fund.

70373. (a) To provide additional funds for maintaining and expanding the uniform accessibility of the courts and judicial process throughout the state, the following surcharges are added to the first appearance fee in the following actions:

(1) A surcharge in all general unlimited civil, family law, and probate actions, as follows:

(A) Ten dollars (\$10) from January 1, 2003, through December 31, 2003.

(B) Fifteen dollars (\$15) from January 1, 2004, through December 31, 2007.

(2) A surcharge of twenty-five dollars (\$25) in all limited civil actions.

(b) The clerk of the court shall collect the surcharge and transmit it to the State Controller, to be deposited in the State Court Facilities Construction Fund. Notwithstanding any other provision of law, the full amount of the surcharge collected shall be deposited as provided in this section.

70373.5. (a) Notwithstanding paragraph (2) of subdivision (a) of Section 70373, a surcharge of eighteen dollars (\$18) shall be added to the first appearance fee in all limited civil actions.

(b) The surcharge provided for in this section and Section 70373 are not subject to the percentage surcharge authorized by Section 68087.

(c) This section shall become inoperative on July 1, 2007, and as of January 1, 2008, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2008, deletes or extends that date.

70374. (a) The Judicial Council shall annually recommend to the Governor and the Legislature the amount proposed to be spent for projects paid for with money in the State Court Facilities Construction Fund. The use of the appropriated money is subject to subdivision (l) of Section 70391.

(b) Facilities shall be subject to the State Building Construction Act of 1955 (commencing with Section 15800) and the Property Acquisition

Law (commencing with Section 15850), except that notwithstanding any other provision of law, the Administrative Office of the Courts shall serve as an implementing agency upon approval of the Department of Finance.

(c) Money in the State Court Facilities Construction Fund shall only be used for either of the following:

(1) To acquire, rehabilitate, construct, or finance court facilities, as defined by subdivision (e) of Section 70302.

(2) To rehabilitate one or more existing court facilities in conjunction with the construction, acquisition, or financing of one or more new court facilities.

(d) Twenty-five percent of all money collected for the State Court Facilities Construction Fund from any county shall be designated for implementation of trial court projects in that county. The Judicial Council shall determine the local projects after consulting with the trial court in that county and based on the locally approved trial court facilities master plan for that county.

(e) Any money in the fund that is appropriated for use on a project that is not needed for completion of that project shall be returned to the fund. The amount shall then be divided between the fund and other state funds in the same proportion that the original sources of money for the project came from the fund and other state funds.

70375. (a) This article shall take effect on January 1, 2003, and the fund, penalty, and fee assessment established by this article shall become operative on January 1, 2003, except as otherwise provided in this article.

(b) In each county, the amount authorized by Section 70372 shall be reduced by the following:

(1) The amount collected for deposit into the local Courthouse Construction Fund established pursuant to Section 76100.

(2) The amount collected for transmission to the state for inclusion in the Transitional State Court Facilities Construction Fund established pursuant to Section 70401 to the extent it is funded by money from the local Courthouse Construction Fund.

(c) The amount authorized by Section 70373 shall be reduced by the following in the following counties:

(1) In the County of Riverside, the amount collected pursuant to Section 26826.1 of the Government Code for transmission to the state for inclusion in the Transitional State Court Facilities Construction Fund established pursuant to Section 70401.

(2) In the County of San Bernardino, the amount collected pursuant to Section 26826.4 of the Government Code for transmission to the state



for inclusion in the Transitional State Court Facilities Construction Fund established pursuant to Section 70401.

(3) In the City and County of San Francisco, the amount collected pursuant to Section 76238 of the Government Code for transmission to the state for inclusion in the Transitional State Court Facilities Construction Fund established pursuant to Section 70401.

(d) The authority for all of the following shall expire proportionally as of the date of transfer of responsibility for facilities from the county to the Judicial Council, except so long as money is needed to pay for construction provided for in those sections and undertaken prior to the transfer of responsibility for facilities from the county to the Judicial Council:

(1) An additional penalty for a local Courthouse Construction Fund established pursuant to Section 76100.

(2) A filing fee surcharge in the County of Riverside established pursuant to Section 26826.1.

(3) A filing fee surcharge in the County of San Bernardino established pursuant to Section 26826.4.

(4) A filing fee surcharge in the City and County of San Francisco established pursuant to Section 76238.

(e) For purposes of subdivision (d), the term “proportionally” means that proportion of the fee or surcharge that shall expire upon the transfer of responsibility for a facility that is the same proportion as the square footage that facility bears to the total square footage of court facilities in that county.

70376. It is the intent of the Legislature that funding for courthouse alteration, renovation, and construction be funded by money in the State Court Facilities Construction Fund and additional money as necessary from the state.

70377. (a) Any amounts required to be transmitted by a county to the Controller pursuant to this article shall be remitted no later than 45 days after the end of the month in which the penalties were collected. Any remittance made later than this time shall be considered delinquent and subject to the penalties specified in this section.

(b) Upon receipt of any delinquent payment required pursuant to this section, the Controller shall calculate a penalty on any delinquent payment by multiplying the amount of the delinquent payment at a daily rate equivalent to $1\frac{1}{2}$ percent per month for the number of days the payment is delinquent.

(c) Penalty amounts calculated pursuant to subdivision (b) shall be paid by the county to the Controller no later than 45 days after the end of the month in which the penalty was calculated. All money received



by the Controller under this section shall be deposited in the State Court Facilities Construction Fund.

(d) If the penalty imposed by this section results from a court's failure to comply with the requirements for timely deposit of money with the county treasury, the court shall reimburse the county general fund in an amount equal to the actual penalty. Notwithstanding Section 77009, the court may pay this penalty from money received from the Trial Court Trust Fund. This section does not require an increase in a court's allocation from the Trial Court Trust Fund.

70378. The State Court Facilities Construction Fund shall be invested in the Surplus Money Investment Fund and all interest earned shall be allocated to the State Court Facilities Construction Fund semiannually and shall be allocated as otherwise provided in this article.

Article 7. Authority and Responsibility

70391. The Judicial Council, as the policymaking body for the judicial branch, shall have the following responsibilities and authorities with regard to court facilities, in addition to any other responsibilities or authorities established by law:

(a) Exercise full responsibility, jurisdiction, control, and authority as an owner would have over trial court facilities whose title is held by the state, including, but not limited to, the acquisition and development of facilities.

(b) Exercise the full range of policymaking authority over trial court facilities, including, but not limited to, planning, construction, acquisition, and operation, to the extent not expressly otherwise limited by law.

(c) Dispose of surplus court facilities following the transfer of responsibility under Article 3 (commencing with Section 70321), subject to all of the following:

(1) If the property was a court facility previously the responsibility of the county, the Judicial Council shall comply with the requirements of Section 11011, and as follows, except that, notwithstanding any other provision of law, the proportion of the net proceeds that represents the proportion of other state funds used on the property other than for operation and maintenance, shall be returned to the fund from which it came and the remainder of the proceeds shall be deposited in the State Court Facilities Construction Fund..

(2) The Judicial Council shall consult with the county concerning the disposition of the facility.

(3) The Judicial Council shall consider whether the potential new or planned use of the facility:



- (A) Is compatible with the use of other adjacent public buildings.
 - (B) Unreasonably departs from the historic or local character of the surrounding property or local community.
 - (C) Has a negative impact on the local community.
 - (D) Unreasonably interferes with other governmental agencies that use or are located in or adjacent to the building containing the court facility.
 - (E) Is of sufficient benefit to outweigh the public good in maintaining it as a court facility or building.
- (4) All funds received for disposal of surplus court facilities shall be deposited by the Judicial Council in the State Court Facilities Construction Fund.
- (5) If the facility was acquired, rehabilitated, or constructed, in whole or in part, with money in the State Court Facilities Construction Fund that was deposited in that fund from the state fund, any funds received for disposal of that facility shall be apportioned to the state fund and the State Court Facilities Construction Fund in the same proportion that the original cost of the building was paid from the state fund and other sources of the State Court Facilities Construction Fund.
- (d) Conduct audits of all of the following:
 - (1) The collection of fees by the local courts.
 - (2) The money in local courthouse construction funds established pursuant to Section 76100.
 - (e) Establish policies, procedures, and guidelines for ensuring that the courts have adequate and sufficient facilities, including, but not limited to, facilities planning, acquisition, construction, design, operation, and maintenance.
 - (f) Establish and consult with local project advisory groups on the construction of new trial court facilities, including the trial court, the county, state agencies, bar groups, and members of the community.
 - (g) Manage court facilities in consultation with the trial courts.
 - (h) Allocate appropriated funds for court facilities maintenance and construction, subject to the other provisions of this chapter.
 - (i) Manage shared-use facilities to the extent required by the agreement under Section 70343.
 - (j) Prepare funding requests for court facility construction, repair, and maintenance.
 - (k) Implement the design, bid, award, and construction of all court construction projects, except as delegated to others.
 - (l) Provide for capital outlay projects that may be built with funds appropriated or otherwise available for these purposes as follows:
 - (1) Approve five-year and master plans for each district.
 - (2) Establish priorities for construction.



(3) Recommend to the Governor and the Legislature the projects shall be funded from the State Court Facilities Construction Fund.

(4) Submit the cost of projects proposed to be funded to the Department of Finance for inclusion in the Governor's budget.

(m) In carrying out its responsibilities and authority under this section, the Judicial Council shall consult with the local court for:

(1) Selecting and contracting with facility consultants.

(2) Preparing and reviewing architectural programs and designs for court facilities.

(3) Preparing strategic master and five-year capital facilities plans.

(4) Major maintenance of any facility.

70392. Pursuant to paragraph (2) of subdivision (b) of Section 70374, the Administrative Office of the Courts shall have the following responsibilities and authority in addition to other responsibilities and authority granted by law or delegated by the Judicial Council:

(a) Notwithstanding any other provision of law and subject to the appropriation of funds, provide the ongoing oversight, management, operation, and maintenance of facilities used by the trial courts, if the responsibility for the facility has been transferred to the Judicial Council pursuant to this chapter.

(b) Carry out the Judicial Council's policies with regard to trial court facilities, except as otherwise expressly limited by law.

(c) Develop for Judicial Council approval the master plans for trial court facilities in each district.

(d) Construction of court buildings, including, but not limited to, selection of architects and contractors, except as otherwise expressly limited by law.

(e) Delegate its responsibilities and authority to the local trial court for court facilities used by that court.

70393. The county shall have the following authority and responsibilities with regard to court facilities in addition to any other authority or responsibilities established by law:

(a) Manage the shared-use buildings whose title the county retains under subdivision (b) of Section 70323.

(b) Make recommendations to the court and the Judicial Council for the location of new court facilities.

(c) Provide services to local court facilities as provided in the agreement entered into under Section 70322.

(d) Indemnify the state for any liability imposed on the state pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.), or related provisions for conditions that existed on the property at the time of transfer whether or not known to the county.

Article 8. Transitional Funding

70401. There is hereby established in the State Treasury the Transitional State Court Facilities Construction Fund. For each facility transferred to the state that is subject to bonded indebtedness and for which a revenue source is also transferred to the state, pursuant to subdivision (b) of Section 70325, a separate account shall be established in the fund to receive and disburse moneys for that facility. The county shall continue to collect and transmit to the Controller for deposit in the fund the moneys transferred to service the debt on the facility. The fund shall cease to exist when all debt transferred to the state pursuant to Section 70325 has been paid.

70402. (a) Any amount in either a county's courthouse construction fund established by Section 76100, a fund established by Section 26826.1 in the County of Riverside, a fund established by Section 26826.4 in the County of San Bernardino, and a fund established by Section 76238 in the City and County of San Francisco, shall be transferred to the State Court Facilities Construction Fund at the later of the following:

(1) The date of the last transfer of responsibility for court facilities from the county to the Judicial Council or June 30, 2007, whichever is earlier.

(2) The date of the final payment of the bonded indebtedness for any court facility that is paid from that fund is retired.

(b) If the responsibility for one or more facilities does not transfer, the county's courthouse construction fund shall retain that portion of the total money in the fund as the square footage of the facilities that do not transfer bears to the total square footage of court facilities in that county.

70403. (a) Each county shall submit a report to the Administrative Director of the Courts and the Director of Finance accounting for all receipts and expenditures from the local courthouse construction fund established pursuant to Section 76100 for the period from January 1, 1998, to the date of transfer of the fund pursuant to subdivision (a) of Section 70402 or December 31, 2005, whichever is earlier.

(b) If the county retains the fund under subdivision (a) of Section 70325 for payment on existing bonded indebtedness of a courthouse facility, the county shall submit annual updates on all receipts and expenditures from the local courthouse construction fund, within 90 days of the end of each fiscal year, to the Administrative Director of the Courts and the Director of Finance.

(c) Any expenditures made from the fund for a purpose other than those specified in Section 76100 must be repaid to the state for deposit in the State Court Facilities Construction Fund pursuant to Section

70402. Either the Administrative Director of the Courts or the Director of the Department of Finance may provide the county with notice that an expenditure made from the fund was for a purpose other than as specified in Section 76100. If the county disagrees with the determination, it may appeal the determination to the Court Facilities Dispute Resolution Committee pursuant to Section 70303.

SEC. 5. Section 76000 of the Government Code is amended to read:

76000. (a) In each county there shall be levied an additional penalty of seven dollars (\$7) for every ten dollars (\$10) or fraction thereof which shall be collected together with and in the same manner as the amounts established by Section 1464 of the Penal Code, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except parking offenses subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code.

The county treasurer shall deposit those amounts specified by the board of supervisors by resolution in one or more of the funds established pursuant to this chapter. However, deposits to these funds shall continue through whatever period of time is necessary to repay any borrowings made by the county on or before January 1, 1991, to pay for construction provided for in this chapter.

(b) In each authorized county, provided that the board of supervisors has adopted a resolution stating that the implementation of this subdivision is necessary to the county for the purposes authorized, with respect to each authorized fund established pursuant to Section 76100 or 76101, for every parking offense where a parking penalty, fine, or forfeiture is imposed, an added penalty of two dollars and fifty cents (\$2.50) shall be included in the total penalty, fine, or forfeiture. Except as provided in subdivision (c), for each parking case collected in the courts of the county, the county treasurer shall place in each authorized fund two dollars and fifty cents (\$2.50). These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1462.3 or 1463.009 of the Penal Code. The judges of the county shall increase the bail schedule amounts as appropriate to reflect the added penalty provided for by this section. In those cities, districts, or other issuing agencies which elect to accept parking penalties, and otherwise process parking violations pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the



added penalty provided for by this section. Each agency which elects to process parking violations shall pay to the county treasurer two dollars and fifty cents (\$2.50) for each fund for each parking penalty collected on each violation which is not filed in court. Those payments to the county treasurer shall be made monthly, and the county treasurer shall deposit all those sums in the authorized fund. No issuing agency shall be required to contribute revenues to any fund in excess of those revenues generated from the surcharges established in the resolution adopted pursuant to this chapter, except as otherwise agreed upon by the local governmental entities involved.

(c) The county treasurer shall deposit one dollar (\$1) of every two dollars and fifty cents (\$2.50) collected pursuant to subdivision (b) into the general fund of the county.

(d) The authority to impose the two-dollar-and-fifty-cent (\$2.50) penalty authorized by subdivision (b) shall be reduced to one dollar (\$1.00) as of the date of transfer of responsibility for facilities from the county to the Judicial Council pursuant to Article 3 (commencing with Section 70321) of Chapter 5.1, except as money is needed to pay for construction provided for in Section 76100 and undertaken prior to the transfer of responsibility for facilities from the county to the Judicial Council.

(e) The seven dollar (\$7) additional penalty authorized by subdivision (a) shall be reduced in each county by the additional penalty amount assessed by the county for the local courthouse construction fund established by Section 76100 as of January 1, 1998, when the money in that fund is transferred to the state under Section 70402. The amount each county shall charge as an additional penalty under this section shall be as follows:

Alameda	\$5.00	Marin	\$5.00	San Luis Obispo	\$6.00
Alpine	\$5.00	Mariposa	\$2.00	San Mateo	\$4.75
Amador	\$5.00	Mendocino	\$7.00	Santa Barbara	\$3.50
Butte	\$6.00	Merced	\$5.00	Santa Clara	\$5.50
Calaveras	\$3.00	Modoc	\$4.00	Santa Cruz	\$7.00
Colusa	\$6.00	Mono	\$5.00	Shasta	\$3.50
Contra Costa	\$5.00	Monterey	\$5.00	Sierra	\$7.00
Del Norte	\$5.00	Napa	\$3.00	Siskiyou	\$5.00
El Dorado	\$5.00	Nevada	\$5.00	Solano	\$5.00
Fresno	\$5.00	Orange	\$3.50	Sonoma	\$5.00
Glenn	\$4.06	Placer	\$4.75	Stanislaus	\$5.00
Humboldt	\$5.00	Plumas	\$5.00	Sutter	\$3.00
Imperial	\$6.00	Riverside	\$4.60	Tehama	\$7.00
Inyo	\$4.00	Sacramento	\$5.00	Trinity	\$4.26

Kern	\$7.00	San Benito	\$5.00	Tulare	\$5.00
Kings	\$7.00	San Bernardino	\$5.00	Tuolumne	\$5.00
Lake	\$7.00	San Diego	\$5.00	Ventura	\$5.00
Lassen	\$2.00	San Francisco	\$6.99	Yolo	\$7.00
Los Angeles	\$5.00	San Joaquin	\$3.75	Yuba	\$3.00
Madera	\$4.50				

SEC. 6. Section 76100 of the Government Code is amended to read:

76100. (a) Except as provided in Article 3 (commencing with Section 76200), for the purpose of assisting any county in the acquisition, rehabilitation, construction, and financing of courtrooms or of a courtroom building or buildings containing facilities necessary or incidental to the operation of the justice system, the board of supervisors may establish in the county treasury a Courthouse Construction Fund into which shall be deposited the amounts specified in the resolutions adopted by the board of supervisors in accordance with this chapter. The moneys of the Courthouse Construction Fund shall be payable only for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) In conjunction with the acquisition, rehabilitation, construction, or financing of court buildings referred to in subdivision (a), the county may use the moneys of the Courthouse Construction Fund for either of the following:

(1) To rehabilitate existing courtrooms or an existing courtroom building or buildings for other uses if a new courtroom or a courtroom building or buildings are acquired, constructed, or financed.

(2) To acquire, rehabilitate, construct, or finance excess courtrooms or an excess courtroom building or buildings, if that excess is anticipated to be needed at a later time.

(c) Any excess courtroom or excess courtroom building or buildings that are acquired, rehabilitated, constructed, or financed pursuant to subdivision (b) may be leased or rented for uses other than the operation of the justice system until the excess courtrooms or excess courtroom building or buildings are needed for the operation of the justice system. Any amount received as lease or rental payments pursuant to this subdivision shall be deposited in the Courthouse Construction Fund.

(d) The fund moneys shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code.

SEC. 7. Section 76101 of the Government Code is amended to read:

76101. (a) Except as provided in Article 3 (commencing with Section 76200), for the purpose of assisting any county in the construction, reconstruction, expansion, improvement, operation, or

maintenance of county criminal justice and court facilities and for improvement of criminal justice automated information systems, the board of supervisors may by resolution establish in the county treasury a Criminal Justice Facilities Construction Fund. All amounts collected pursuant to resolutions adopted by a county in accordance with this chapter shall be deposited into the fund. The moneys of the Criminal Justice Facilities Construction Fund shall be payable only for the purposes set forth in subdivision (b) and at the time necessary therefor.

(b) For purposes of this chapter, “county criminal justice facilities” includes, but is not limited to, jails, women’s centers, detention facilities, juvenile halls, and courtrooms. Any new jail, or any addition to an existing jail that provides new cells or beds, which is constructed with moneys from the Criminal Justice Facilities Construction Fund shall comply with the “Minimum Standards for Local Detention Facilities” promulgated by the Board of Corrections.

(c) The fund moneys shall be held by the county treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code.

SEC. 8. Section 76223 is added to the Government Code, to read:

76223. Notwithstanding any other provision of law, the following conditions pertain to the construction of court facilities in Merced County by the County of Merced for any construction pursuant to a written agreement entered into prior to January 1, 2004, between the board of supervisors and the presiding judge of the superior court:

(a) Revenue received in Merced County from civil assessments for Failure to Appear, pursuant to Section 1214.1 of the Penal Code, shall be available, in an annual amount not to exceed the amount agreed upon by the board of supervisors and the presiding judge of the superior court, for the purpose of augmenting other funds made available for construction.

(b) The presiding judge of the superior court may agree to make available court funds, up to a stated amount, other than funds received from the Trial Court Trust Fund or other state sources, in the courthouse construction fund.

(c) The total amounts deposited under subdivision (a) may not exceed in any fiscal year the amount payable on the construction costs less (1) any amounts paid by the courthouse construction fund and (2) any other amounts paid from other sources except for any amounts paid pursuant to subdivision (b).

(d) The total amounts deposited under subdivision (b) shall not exceed in any fiscal year the amount payable on the construction costs less (1) any amounts paid by the courthouse construction fund, (2) any amounts paid pursuant to subdivision (a) of this section, and (3) any



other amounts paid from other sources except for any amounts paid pursuant to subdivision (b).

(e) If legislation is passed and becomes effective transferring the responsibility for court facilities to the state, and the legislation permits the transfer of the bonded indebtedness or other encumbrance on court facilities together with revenue sources for payment of the bonded indebtedness or other encumbrance, the revenue sources provided for by this section may also be transferred to the state.

(f) As used in this section, the costs of construction also includes the payment on the bonded indebtedness or other encumbrance used to finance the construction.

SEC. 9. Section 70373.5 as added to the Government Code by this act shall only become operative if Assembly Bill 3000 or Senate Bill 1843, or both, of the 2001–02 Regular Session is enacted to add Section 68087 to the Government Code.

SEC. 10. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

